

Remarks/Arguments

This paper addresses the issues raised in the Office Action mailed 28 March 2006. This amendment is submitted in compliance with the guidelines of the revised amendment practice. See 1267 Off. Gazette 106.

Claims 32-49 are currently pending. The prior issued restriction requirement has been withdrawn. The Examiner has indicated the should Claims 36 and 37 be found allowable, Claims 38 and 39 would be objected to as being substantial duplicate thereof. Claims 32, 34, 43, 44, 46 and 48 were rejected under 35 U.S.C. § 102(b) as being anticipated by Perali et al (USPN 4,914,762). Claims 48 and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perali et al in view of Marrone (USPN 5,007,449). Claims 33 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claims 32 and 34, and further in view of Gewecke (sic) (USPN 3,368,560). Claims 36-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perali et al in view of Marrone and Canonica (USPN 3,239,956). Claims 42, 45 and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perali. New Claim 50 has been added. Claims 38 and 39 have been cancelled. No new matter has been added. As set out below, Applicant respectfully submits that the present invention as claimed is patentable over the cited art and urges the Examiner to reconsider the pending rejections.

Election/Restrictions

The Examiner has withdrawn the restriction requirement set forth in the prior office action. No further response is necessary.

Double Patenting

The Examiner has indicated that should Claims 36 and 37 be found allowable, then Claims 38 and 39 would be a substantial duplicate thereof and would constitute double patenting. Claims 38 and 39 have been cancelled, rendering this potential objection moot.

Claims Rejection - 35 U.S.C. § 102(b); Claims 32, 34, 43, 44, 46 and 48

Examiner Hylton rejected Claims 32, 34, 43, 44, 46 and 48 under 35 U.S.C. § 102(b) as being anticipated by Perali et al (USPN 4,914,762). In making this rejection, Examiner Hylton stated that Perali disclosed all aspects of these claims. More specifically, the Examiner has indicated that water is a liquid cleanser and as such, Perali includes all the elements set out in these claims. As set out below, Applicant traverses this rejection and seeks reconsideration.

Perali does not disclose the inclusion of liquid cleanser. The inclusion of Marrone and Gewecke do not provide any teaching, suggestion or motivation for the inclusion of liquid cleanser with the container of Perali.

The Examiner, in the Office Action, concluded that a water is a liquid cleanser. Applicant respectfully traverses this conclusions. As set out in Section 2111.01 of the MPEP, words in an application must be given their plain meaning unless applicant has provided a clear definition in the specification. In the Perali patent, it makes reference to filing its device with water. Water is defined as “a clear, colorless, odorless, and tasteless liquid, H₂O, essential for most plant and animal life and the most widely used of all solvents. Freezing point 0°C (32°F); boiling point 100°C (212°F); specific gravity (4°C) 1.0000; weight per gallon (15°C) 8.338 pounds (3.782 kilograms).” The American Heritage® Dictionary of the English Language, Fourth Edition, Houghton Mifflin Company. The plain meaning of this term is straight forward, it is water. It

does not teach or disclose any other type of liquid, solution or preparation.

In contrast, as set forth in the Claims, a liquid cleanser is within the chamber of the present invention, as claimed. A cleanser is broadly defined as “a preparation used in cleaning something [syn: cleansing agent, cleaner]”. WordNet ® 2.0, 2003 Princeton University. The plain meaning of this term is also straight forward, it is a liquid that includes a cleaning agent to assist in the cleaning of a surface. Since water does not include a cleaning agent, it cannot be considered a cleanser. Accordingly, Perali does not include all the elements set forth in the Claims. Thus, it is respectfully submitted that these references do not render these Claims unpatentable. Reconsideration is respectfully requested.

Claims Rejection - 35 U.S.C. § 103(a): Claim 48 and 49

Examiner Hylton rejected Claims 48 and 49 under 35 U.S.C. § 103(a) as being unpatentable over Perali et al (USPN 4,914,762) in view of Marrone (USPN 5,007,449). In making this rejection, Examiner Hylton stated that Perali disclosed all aspects of this claim except for a transfigurable slit disposed near the sealed end of the hollow cylinder. However, according to the Examiner, Marrone so discloses and is obvious to combine these references.

Perali teaches an inflatable air cushion having a truncated pyramid structure for use with seats, beds and mattresses. Perali utilizes the truncated pyramid structure to maintain an optimal placement while in use. As set out above, there is no teaching, suggestion or motivation to include liquid cleanser, such as liquid soap, inside this air cushion. Moreover, this reference only teaches or suggests its structural design to be used as a cushion. The inclusion of the Marrone closure does not include, suggest, teach or provide any motivation for the inclusion of a liquid

cleanser inside neither the Perali or its container disclosed therein.

The present invention, as set forth in Claims 48 and 49 disclose a flexible container having a chamber containing a liquid cleanser. This liquid cleanser is a different, non-disclosed composition of matter than the liquid disclosed in Perali. This is due to Perali being structurally designed for improved lumbar support while sitting. It is respectfully submitted that Perali does not suggest or teach the use of a liquid cleanser. Accordingly, the combination of Perali and Marrone do not disclose, teach or suggest all the elements of Claims 48 or 49. Reconsideration of this rejection is respectfully requested.

Claims Rejection - 35 U.S.C. § 103(a); Claims 33 and 35

Examiner Hylton rejected Claim 33 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claim 32, and further in view of Gewecke (USPN 3,368,560). In making this rejection, Examiner Hylton stated that Perali disclosed all aspects of this claim except for a transfigurible slit disposed near the sealed end of the hollow cylinder nor teach a hanging means on the flexible container. However, according to the Examiner, Marrone discloses the transfigurible slit and Gewecke discloses the hanging means, and it is obvious to combine these references. As set out below, Applicant traverses this rejection and seeks reconsideration.

As set out above, Perali does not disclose the inclusion of liquid cleanser. The inclusion of Marrone and Gewecke do not provide any teaching, suggestion or motivation for the inclusion of liquid cleanser with the container of Perali. Accordingly, it is respectfully submitted that these references do not render Claims 33 and 35 unpatentable. Reconsideration is respectfully requested.

Claims Rejection - 35 U.S.C. § 103(a); Claims 36 -41

Examiner Hylton rejected Claims 36-41 under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to Claims 32 and 34, and further in view of Canonica (USPN 3,239,956).

As set out above, Perali does not disclose the inclusion of liquid cleanser. The inclusion of Marrone, Gewecke or Canonica do not provide any teaching, suggestion or motivation for the inclusion of liquid cleanser with the container of Perali. Accordingly, it is respectfully submitted that these references do not render Claims 36-41 unpatentable.

Moreover, Canonica is directed to an animated marine display having a transparent tank made from glass, plastic or other suitable material. (Col. 1, Line 72 - Col. 2, Line 2) It is not directed toward an inflatable bag or container, nor is there any teaching or suggestion for the inclusion of such material. Additionally, Perali is directed toward an inflatable air cushion having a truncated pyramid structure for use with seats, beds and mattresses. There is no teaching or suggestion to include any features of a marine display contained with a glass-type tank. Thus, there is no motivation, suggestion or teaching to combine these references.

Based on the above, reconsideration of this rejection is respectfully requested.

Claims Rejection - 35 U.S.C. § 103(a); Claims 45 and 47

Examiner Hylton rejected Claims 45 and 47 under 35 U.S.C. § 103(a) as being unpatentable over Perali.

As set out above, Perali teaches an inflatable air cushion having a truncated pyramid

structure for use with seats, beds and mattresses. Perali utilizes the truncated pyramid structure to maintain an optimal placement while in use. As set out above, there is no teaching, suggestion or motivation to utilize any other shapes, such as animal or flower shapes. Moreover, this reference only teaches or suggests its structural design to be used as a cushion. This is due to the specific nature of the problem Perali is attempting to address - "to improve the sitting comfort of certain body members." (Perali, Col. 1, Lines 7-8). To create this device in any other type of structural design would frustrate the purpose of the disclosure. Accordingly, it is respectfully submitted that this reference does not render Claims 45 or 47 unpatentable. Based on the above, reconsideration of this rejection is respectfully requested.

Claims Rejection - 35 U.S.C. § 103(a): Claims 42

Examiner Hylton rejected Claim 42 under 35 U.S.C. § 103(a) as being unpatentable over Perali. In making this rejection, the Examiner took Official Notice that water is the equivalent to liquid emulsifier. The Applicant respectfully disagrees and traverses this rejection. As set out above, a liquid emulsifier and water are different and distinct.

An emulsifier is defined as "a surface-active agent (as a soap) promoting the formation and stabilization of an emulsion." Merriam-Webster's Medical Dictionary, 2002 Merriam-Webster, Inc. It is well-settled that soap, i.e. an emulsifier, is not water. They have different chemical properties along with different purposes of use.

As used in the Perali disclosure, water can be used to fill an inflatable air cushion having a truncated pyramid structure for use with seats, beds and mattresses. There is no teaching for including any other liquid but water within this structure. As such, Perali does not provide any

teaching, suggestion or motivation for the inclusion of liquid emulsifier within the container of Perali. Accordingly, it is respectfully submitted that this reference does not render Claim 42 unpatentable.

Commercial Success

Applicant submits that as evidence of the nonobviousness of the claimed invention, it has obtained sufficient commercial success to overcome the Examiner's obviousness conclusion. The success of the Applicant's invention is directed related to the features claimed in the pending claims, to-wit: a flexible chamber having liquid soap or other cleaner therein. This success is evidenced by the size of the market share, growth of the market share since the inventive product was introduced into the public and the number of infringers since the introduction of the inventive product. Accordingly, the commercial success of the inventive product is evidence of the non-obviousness of the claims set for in the present application. Thus, reconsideration of the outstanding rejections is respectfully requested.

New Claim 50

New Claim 50 has been added. No new matter has been added. New Claim 50 include the limitation that the liquid soap is located within the chamber portion of the inventive device. As these claims depend from Claim 32, for the reasons set forth above, it is respectfully submitted these claims are in condition for allowance.

Conclusion

For the reasons set forth above, it is respectfully submitted the above claims, as amended, are not rendered unpatentable over the cited prior art and are in a condition for allowance. Reconsideration of the rejections is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Bt Capehart', is written over the typed name.

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June 28, 2006
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